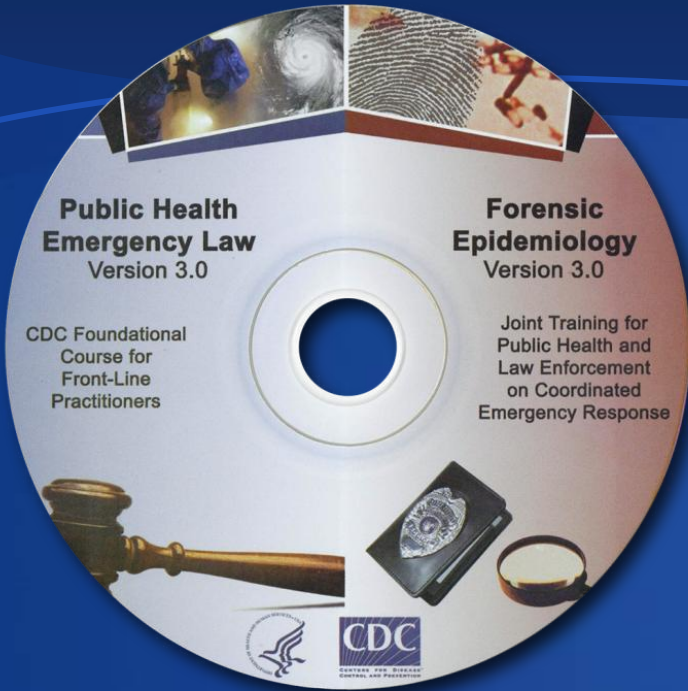


# Training for Joint Emergency Response and Joint Investigations: Implementing “Public Health Emergency Law 3.0” and “Forensic Epidemiology 3.0”



Stacie Kershner, JD  
Public Health Law Program  
Centers for Disease Control and Prevention

# CDC Disclaimer

The contents of this presentation have not been formally disseminated by the Centers for Disease Control and Prevention and are for instructional purposes only. While every effort has been made to verify the accuracy of these materials, neither the presentation nor course materials provided are intended as a substitute for professional legal or other advice. Always seek the advice of an attorney or other qualified professional with any questions you may have regarding a legal matter.



# **Public Health Emergency Law**

**Version 3.0**

**CDC Foundational Course for  
Front-Line Practitioners**

**Developed by  
U.S. Centers for Disease Control and Prevention  
Public Health Law Program**



# Goal

- To strengthen the capacity of professionals involved in planning for, and responding to, public health emergencies (PHEs) by enhancing their knowledge and understanding of the legal basis for public health emergency management.

# Questions

- What are the key laws and legal principles implicated in the management of a PHE?
- What legal issues are raised by a PHE?
- What are examples of issues and questions for which an appropriate attorney should be consulted?



# Methodology

- Three instructional units (PPT)
  - Intro to Emergency Management in the Federal System
  - Emergency Powers: Protection of Persons
  - Emergency Powers: Property and Volunteers
- Interactive Case Study
- Fits into preparedness planning
- All-hazards approach





# Participants

In your jurisdiction, who will need to work together to achieve an effective response during a public health emergency?



- Local and state PH officials
- Emergency management officials
- Attorneys
- Law Enforcement
- Other

# Instructors/Facilitators

- Instructors
  - To teach the three units
  - Must be familiar with PHE laws and have experience managing a PHE
  - Public health and/or emergency management attorneys or officials
  - Recommended that two instructors (one from each discipline) co-teach the course
- Facilitators
  - To draw out the expertise of group members during the case study



# Unit 1: Introduction to Emergency Management in the Federal System

- Objectives:
  - Define public health legal preparedness and outline the role of agencies' attorneys
  - Describe how emergency management operates in the federal system
  - Identify the basics of state and federal emergency declarations
  - Understand roles and legal authorities involved in comprehensive emergency response



# The Federal System and Local Control

*All emergencies start locally*

- As scale / complexity increase, local governments request support from the state
- When situation is beyond capability of the state, the Governor may request aid from the President
- Catastrophic response triggers resources from:
  - Multiple jurisdictions and agencies
  - Multiple levels of government
- Unified command replaces local command

*Result: A textbook example of federalism.*



# Unit 2: Emergency Powers: Protection of Persons

- Objectives:
  - Identify the Constitutional framework for use of police powers to protect the public's health during an emergency
  - Describe limits of mandatory controls and social distancing measures
  - Recognize the scope of local, state, tribal, federal, and international jurisdictional issues pertaining to protection of people
  - Identify legal issues regarding mass evacuations, re-opening facilities, special populations, and related issues

# Quarantine and Isolation: Constitutional Requirements

- Quarantine and isolation restrict individual liberty
  - Similar to criminal arrest or civil commitment
- U.S. Constitution, 5<sup>th</sup> and 14<sup>th</sup> Amendments
  - 5<sup>th</sup> Due Process Clause: “nor be deprived of life, liberty, or property, without due process of law”
  - 14<sup>th</sup> Amendment makes “due process” applicable to states
- Basic Due Process for quarantine and isolation
  - Right to notice
  - Right to counsel
  - Right to hearing on request
  - Rational / reasonable basis for detention



# Unit 3: Emergency Powers: Property and Liability

- Objectives:
- Exercises emergency power over private property
- Protects the public from dangerous or contaminated private property
- Takes control of, uses, and allocates privately owned facilities, equipment, materials, and supplies
- Recruits and manages emergency volunteers, and addresses liability concerns



# Minimizing Liability:

## EMAC, Licensing & Liability Issues

*These provisions only apply to “officers and employees” of state!*

- Licensing of professionals
  - A “person” licensed in the responding state “shall be deemed” licensed in the requesting state UNLESS requesting governor orders otherwise
- Liability and compensation provisions
  - Responding state’s “officers and employees” are “agents” of requesting state for liability and immunity purposes – responding state and its officers or employees not liable for actions in good faith
  - Responding state retains responsibility to pay compensation and death benefits for its officers and employees even if injury occurs during EMAC deployment to another state



# PHEL Case Study

- Hypothetical Scenario lays out facts
  - Flooding
  - Train derailment
  - Toxic spill



# PHEL Case Study

- Examples of Legal Issues Addressed
  - Federal/state declarations of emergency
  - Requesting assistance from federal govt. or neighboring states
  - Coordination between agencies, across jurisdictions
  - Ordering and enforcing evacuation
  - Addressing needs of vulnerable populations
  - Continuity of operations for justice system
  - Requirements to provide food, shelter, care to displaced persons





# **Forensic Epidemiology**

## **Version 3.0**

**Joint Training for Public Health  
and Law Enforcement on  
Coordinated Emergency Response**

**Developed by  
U.S. Centers for Disease Control and Prevention  
Public Health Law Program**



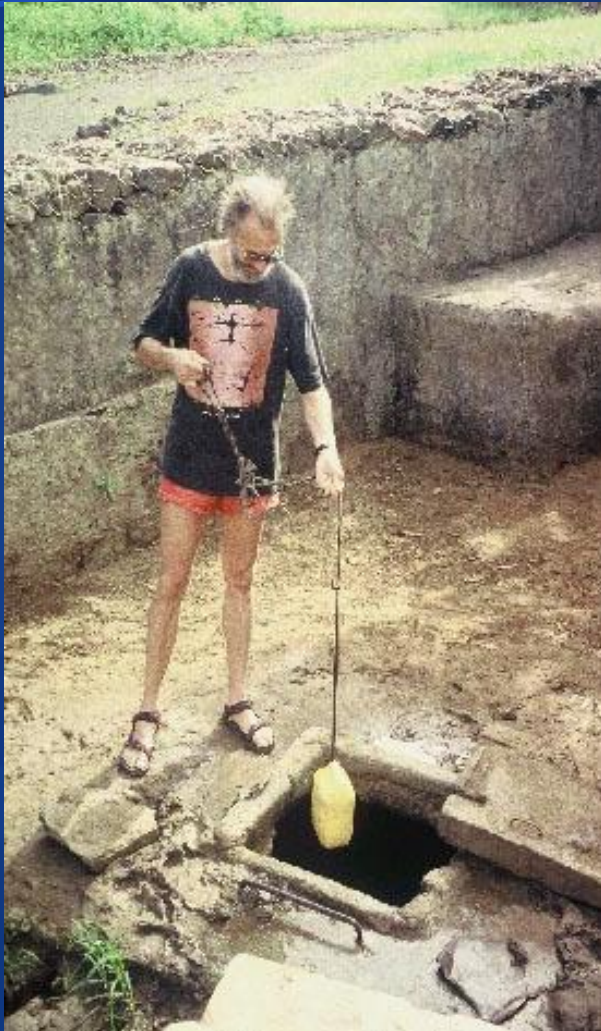


# Law Enforcement

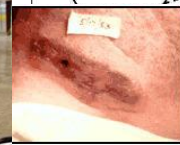
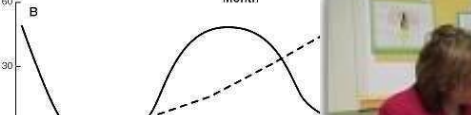
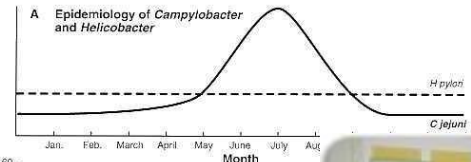




# Public Health



# Law Enforcement and Public Health



anthrax lesion on a man's neck.

X-Ray shows anthrax lung inflammation.



# Different (mostly) Goals

Public Health	Law Enforcement
Stop spread of disease	Stop further crime
Protect health and safety of the public	Protect health and safety of the public
Build science base for future prevention	Apprehend and convict criminals



# Different Terminology

	<b>Public Health</b>	<b>Law Enforcement</b>
Case/Victim	Individual who has a particular disease	Case - Totality of an investigation Victim – individual or entity legally harmed
Surveillance	Monitoring data sources for occurrence of disease	Observation of a person under suspicion
Evidence	Scientific standards	Legal standards

# FE: Original v. 3.0

## Original

- Focus on Information Sharing/Joint Investigations
- Format: 1/2 to 2 day training
  - 4 Slide Presentations
  - 3 Case Studies (Bioterrorism)
  - Can be adapted to include more presentations, etc. depending on jurisdiction
- FBI/CDC conduct regional Crim/Epi workshops that have evolved from this

## 3.0

- Focus on Coordination of Response to Pandemic Influenza
- Format: 1/2 day training
  - 1 Case Study (Pan Flu)
  - Can be adapted to include relevant presentations depending on jurisdiction





# FE: Original v. 3.0

## Original

- Objectives:

- Identify the roles of LE and PH in a bioterrorism threat
- Identify existing information and intelligence-sharing protocols for LE and PH.
- Introduce and conduct training of joint investigations methodology.
- Identify benefits, obstacles, and challenges of joint investigations.

## 3.0

- Objectives

- Develop an understanding of measures needed to ensure coordination between PH and LE during a public health emergency
- Recognize how selected interventions will be coordinated between PH and LE
- Develop a clear understanding of PH and LE continuity of operations plans
- Explain approaches for assessing preparedness efforts
- Describe PPE that will allow LE to function during a PHE



# Participants

## Public Health

- Epidemiologists
- PH investigators
- PH nurses
- PH emergency preparedness
- PH public information officers
- Attorneys

## Law Enforcement

- City Police
- County Police
- Sheriff's Dept.
- State Police
- State Attorneys
- Judges
- LE public information officers



# Participants

- Others
  - Emergency Medical Services
  - City/County Fire and Rescue
  - HAZMAT
  - PH Lab reps
  - Forensic/crime lab reps
  - Public Safety
  - Postal inspectors
  - Military
  - Medical Examiner's office
  - Airport police
  - Transportation
  - Feds: FDA, CDC, FBI, DOJ (AUSAs)



# Why Case Studies/TTXs?

- Benefits of this method
  - Brings those involved in a PHE together; builds relationships
  - Helps participants understand their roles and the roles of others during a PHE
  - Illustrates the applicable legal authorities and their implementation in a practice setting
  - Examines legal authorities and coordination efforts during pre-event, event, and post event phases
  - Can be combined with other training activities



# Questions?

Materials available at  
[www.cdc.gov/phlp](http://www.cdc.gov/phlp)

Contact information:  
Stacie Kershner, JD  
[skershner@cdc.gov](mailto:skershner@cdc.gov)

